

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

ANTONIO GARCIA,

Plaintiff,

v.

Civ. No. 1:21-cv-00488-MIS/GJF

KILOLO KIJAKAZI, Acting Commissioner
of the Social Security Administration,

Defendant.

ORDER ADOPTING PROPOSED FINDINGS AND RECOMMENDED DISPOSITION

Magistrate Judge Gregory J. Fouratt filed his Proposed Findings and Recommended Disposition (“PFRD”) on February 9, 2022, in which he recommended that Plaintiff’s Complaint (ECF No. 1) be dismissed without prejudice. ECF No. 21. The PFRD notified the parties of their ability to file objections no later than February 23, 2022, and that failure to file such objections waived appellate review. To date, now well past the deadline, neither party has filed any objections to the PFRD.

The Tenth Circuit has held that “a party’s objections to the magistrate judge’s report and recommendation must be both timely and specific to preserve an issue for de novo review by the district court or for appellate review.” *United States v. One Parcel of Real Property*, 73 F.3d 1057, 1060 (10th Cir. 1996). The parties’ failure to timely object to the PFRD has waived appellate review of both factual and legal questions. *In re Key Energy Res. Inc.*, 230 F.3d 1197, 1199–1200 (10th Cir. 2000); *One Parcel of Real Property*, 73 F.3d at 1059. Furthermore, having reviewed the record and Defendant’s Motion to Dismiss Pursuant to Federal Rule of Civil Procedure 12(b)(1) (ECF No. 19), the Court concurs with the findings, analysis, and conclusions in the PFRD.

CONCLUSION

IT IS THEREFORE ORDERED that:

1. The Magistrate Judge's PFRD (ECF No. 21) is **ADOPTED**;
2. Defendant's Motion to Dismiss Pursuant to Federal Rule of Civil Procedure 12(b)(1) (ECF No. 19) is **GRANTED**; and
3. A final order is entered concurrently herewith **DISMISSING THIS CASE WITHOUT PREJUDICE**.

A handwritten signature in black ink that reads "Margaret Strickland". The signature is written in a cursive, flowing style. Below the signature is a horizontal line.

MARGARET STRICKLAND
UNITED STATES DISTRICT JUDGE